



Civil Rights Division

Voting Section - NWB  
950 Pennsylvania Ave, NW  
Washington, DC 20530

August 14, 2014

**VIA ELECTRONIC MAIL**

G. David Whitley, Esq.  
Assistant Deputy Attorney General  
Office of the Attorney General of Texas  
209 West 14th Street  
P.O. Box 12548  
Austin, TX 78711-2548

Re: *Veasey v. Perry*, No. 2:13-CV-193-NGR (S.D. Tex.)

Dear Mr. Whitley:

As a further follow-up to our recent telephone conferrals regarding Defendants' pending motion to compel election fraud information, and pursuant to the Court's instructions at this morning's status hearing, we have reviewed the four sample spreadsheets of Election Code Referrals to the Texas Office of the Attorney General (TXOAG) that you referenced to the Court:

- "Charges Pending Resolution," TEX0649837;
- "Prosecutions Resolved," TEX0649808-14;
- An untitled spreadsheet appearing to catalog non-prosecuted allegations referred to TXOAG by the Secretary of State's Office, TEX0649815-28; and
- An untitled spreadsheet appearing to catalog non-prosecuted allegations referred to TXOAG by sources other than the Secretary of State's Office, TEX0649829-36

Each of Defendants' charts provides different categories of information. As to your first two charts, which relate to **resolved and pending prosecutions**, the United States has, for weeks, been willing to provide comparable information to Defendants. We have twice indicated to you, in writing, that the United States is willing to search the Department of Justice's LIONS and ACTS databases and produce the following information to Defendants relating to election fraud prosecutions ***nationwide, between 2004-present***, that have not been sealed by a court: (1) case name, (2) docket number, (3) judicial district, and, if available, (4) the election crime(s) or statute(s) charged in the indictment or information. We are also willing to produce, for each defendant, (5) the final disposition date, if available, and (6) the final disposition, if available. We assume, therefore, there are no disagreements between the United States and Defendants

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regarding the information we have offered to provide relating to resolved and pending charged cases.

Your second two charts deal with non-prosecuted allegations of election fraud referred to TX OAG. As to those referrals, you have provided (1) the county in which the election arose, (2) the election involved, (3) the source of the referral for non-SOS referrals, or the date of the referral for SOS referrals, and (4) the allegations involved. In an effort to resolve this matter fully, the United States is willing to search the Department of Justice's LIONS and ACTS databases and produce the following information to Defendants relating to election fraud "matters" (as previously defined) ***nationwide, between 2004-present***: (1) the date the matter was opened; (2) the date the matter was closed; and (3) the election crime(s) or statute(s) being investigated. Although Texas has chosen to disclose the county in which its investigations arise, the United States cannot agree to produce information that discloses the judicial district or other geographic location in which any investigated matter arises, as such information (in conjunction with the other details we are agreeing to provide) could be used to identify specific investigations, which would tread upon the United States' governmental privileges and which, as a practical matter, could alert potential criminal targets and endanger individuals' physical safety and well-being. Aside from that caveat, the information the United States is willing to provide relating to non-prosecuted allegations of voter fraud is comparable to what the State of Texas has provided in this case.

We would appreciate your written confirmation, no later than 9:00 pm EDT this evening, as to whether the above proposal will suffice to resolve Defendants' motion. If it does not, we would appreciate specific and written explanation as to what the Defendants consider to be insufficient about the proposal and what Defendants' counterproposal would be. Given that the Court has set another status conference for tomorrow morning at 8:30 a.m. CDT, we trust that we can count on your cooperation in timely responding in writing as requested.

We are available to discuss your written responses and what appear to be the narrow differences between us at your convenience this evening or in the morning. Should you wish to discuss this matter further, I am available at the number below until 6:30pm EDT, or thereafter at the BlackBerry number previously provided to you.

Thanks, and we look forward to hearing from you.

Sincerely,

*/s/ Bradley E. Heard*

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cc: All Counsel of Record